

## REMARKS

Claims 1-3 and 5-9 are currently pending in this application, with claim 1 being the only independent claim. No amendments to the claims have been made. Reconsideration of the above-identified application is respectfully requested.

Claims 1-3, 5-7 and 9 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,276,342 ("*Sinz*") in view of U.S. Patent No. 6,553,973 ("*Coha*"). Claim 8 stands rejected under 35 U.S.C. §103(a) as being unpatentable over *Sinz* in view of *Coha*, and further in view of USP 5,797,377 ("*Fischerkeller*"). For the following reasons, reconsideration and withdrawal of these rejections are respectfully requested.

Independent claim 1 was previously amended to recite "wherein the suction sides of said suction jet pumps are each arranged above a designated minimum height in said surge chambers such that if said suction jet pumps detect that the filling level of one surge chamber has dropped below the minimum height, the feeding of fuel from the one surge chamber ceases". The combination of *Sinz* and *Coha* fails to teach or suggest this limitation because the combination of *Sinz* and *Coha* fails to achieve a system that provides level balancing in the manner obtained by the expressly recited subject matter of independent claim 1.

In the Final Office Action of December 8, 2009, the Examiner has now withdrawn the *Denneulin* reference and states that "all jet pumps stop pumping fluid when the filling level drops below the suction inlet of the jet pump". This assertion glosses over the salient aspect of the claimed invention. The combination of *Sinz* and *Coha* fails to provide this feature, i.e., a system that provides level balancing in the manner provided by the expressly recited subject matter of independent claim 1.

While it is true that all jet pumps may stop pumping fuel when a filling level drops below the suction inlet of the jet pump, there is no level balancing of the surge chambers that is

performed by the system of *Sinz* and *Coha* in the manner achieved by the fuel supply system of independent claim 1. The salient point to grasp here is not that all the jet pumps of independent claim 1 stop pumping fuel when a filling level drops below the suction inlet of the jet pump but, rather, when the section pumps of independent claim 1 detect that the filling level of one surge chamber has dropped below the minimum height, the feeding of fuel from this surge chamber having the insufficient fuel level ceases.

*Sinz* shows an arrangement having two suction jet pumps (23, 24) (see FIG. 1), which are arranged outside of the surge chambers. *Sinz* (col. 3, lines 3-6) explains “that, even when the motor vehicle is traveling around relatively long bends or on hills, the baffles 9, 10 of the feed units are constantly filled from all regions of the fuel tank 1”. This, however, is a passive arrangement, in that there is no balancing of fuel between a pair of baffles. That is, the jet pumps of *Sinz* do not pump fuel from one chamber to the other. Rather, the fuel pumps of *Sinz* are arranged to draw or pull fuel from either side of the saddle (4) (see FIG. 1). Since the jet pumps of *Sinz* are arranged outside of the surge chambers, *Sinz* fails to teach or suggest “wherein the suction sides of said suction jet pumps are each arranged above a designated minimum height in said surge chambers such that if said suction jet pumps detect that the filling level of one surge chamber has dropped below the minimum height, the feeding of fuel from the one surge chamber ceases”, as recited in independent claim 1.

*Coha* likewise fails to teach or suggest an arrangement that operates to achieve level balancing between a pair of surge chambers in the manner achieved by the claimed fuel supply system of independent claim 1. In particular, *Coha* (col. 3, lines 37-42) explains that “[t]he fuel tank 12 includes a first fuel line 72 connecting the by-pass fuel jet pump 68 to the fuel filter 32 of the fuel tank cover and fuel filter assembly 10 and may include a second fuel filter line 74 connecting the by-pass fuel jet pump 68 to the high-pressure fuel jet pump 70”. *Coha* (col. 3,

lines 47-53) further explains that “[i]n operation, fuel inside the fuel tank 12 is pumped by the by-pass fuel jet pump 68 directly to the pressure regulator 62 of the fuel tank cover and fuel filter assembly 10 and aspirated fuel is pumped by the by-pass fuel jet pump 68 to the high-pressure fuel jet pump 70. Fuel is also pumped by the high-pressure fuel jet pump 70 to the pressure regulator 62 of the fuel tank cover and fuel filter assembly 10”. *Coha* thus teaches that fuel is pumped from the bypass fuel jet pump 68 directly to the pressure regulator 62 of the fuel tank cover, and that fuel is pumped by the bypass fuel jet pump 68 to the high pressure fuel jet pump 70. There is, however, no level balancing of the two single chambers in this arrangement. That is, the fuel jet pump 70 does not provide fuel to the fuel reservoir 69. Instead, the fuel jet pump 70 of the *Coha* system pumps fuel to the fuel filter 32 through the third fuel line 76.

Independent claim 1 recites “wherein a suction side of said at least one suction jet pump for filling a first surge chamber of said plural surge chambers is arranged in a second surge chamber of said plural surge chambers, wherein the suction sides of said suction jet pumps are each arranged above a designated minimum height in said surge chambers such that if said suction jet pumps detect that the filling level of one surge chamber has dropped below the minimum height, the feeding of fuel from the one surge chamber ceases”. The claimed fuel supply system requires interoperability of plural surge chambers and suction jet pumps to advantageously provide load balancing. The skilled person is provided with no reason whatsoever based on the teachings of *Coha* to modify the arrangement of the teachings of *Sinz* without engaging in an impermissible hindsight construction based on applicants’ instant disclosure. Independent claim 1 is therefore patentable over the combination of *Sinz* and *Coha* for *at least* this reason.

Moreover, each of the at least one suction jet pump feeds fuel from one of the surge chambers in which the at least one suction jet pump is arranged into another one of the surge

chambers (see claim 2). The combination of *Sinz* and *Coha* fails to achieve an arrangement that achieves level balancing in the foregoing manner. Claim 1 is therefore patentable over the combination of *Sinz* and *Coha* for *at least* this reason.

The Examiner has also acknowledged that the combination of *Sinz* and *Coha* fails to teach or suggest "jet pumps connected to a return line returning fuel from an internal combustion engine into the fuel tank", as recited in dependent claim 8, and cites *Fischerkeller* and *Denneulin* for this feature. Applicants, however, respectfully disagree that the combination of *Sinz*, *Coha*, *Fischerkeller* and *Denneulin* achieves the fuel pump of independent claim 1. There is nothing in the cited prior art with respect to the claimed arrangement such that that if said suction jet pumps detect that the filling level of one surge chamber has dropped below the minimum height, the feeding of fuel from the one surge chamber ceases. The combination of *Sinz*, *Coha*, *Fischerkeller* and *Denneulin* thus fails to teach or suggest applicants' claimed fuel supply system. Applicants accordingly assert that independent claim 1 is therefore patentably distinct over the combination of *Sinz*, *Coha*, *Denneulin* and *Fischerkeller*.

In view of the foregoing, reconsideration and withdrawal of all the rejections under 35 U.S.C. §103(a) are in order, and a notice to that effect is requested.

In view of the patentability of independent claim 1, dependent claims 2 and 3-9 are also patentable over the prior art for the reasons set forth above, as well as for the additional recitations contained therein.

Based on the foregoing remarks, this application is in condition for allowance. Early passage of this case to issue is respectfully requested.

Should the Examiner have any comments, questions, suggestions, or objections, the Examiner is respectfully requested to telephone the undersigned in order to facilitate reaching a resolution of any outstanding issues.

It is believed that no fees or charges are required at this time in connection with the present application. However, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,  
COHEN PONTANI LIEBERMAN & PAVANE LLP

By /Alfred W. Froebrich/  
Alfred W. Froebrich  
Reg. No. 38,887  
551 Fifth Avenue, Suite 1210  
New York, New York 10176  
(212) 687-2770

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